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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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FERRIL J. VOLPICELLI,	Case No. 3:17-cv-00690-MMD-WGC
Petitioner,	
v.	ORDER
WARDEN, <i>et al.</i> ,	
Respondents.	

This habeas matter under 28 U.S.C. § 2254 comes before the Court for initial review of the amended petition under Rule 4 of the Rules Governing Section 2254 Cases (the “Habeas Rules”). (ECF No. 8.)

Following initial review of the petition, the Court will direct a response.

It is therefore ordered that the Clerk will informally electronically serve the Nevada Attorney General with a copy of the amended petition and this order, along with regenerated notices of electronic filing of the remaining filings herein.

It is further ordered that respondents will have sixty (60) days from entry of this order within which to respond to the petition. Any response filed will comply with the remaining provisions below, which are tailored to this particular case based upon the Court's screening of the matter and which are entered pursuant to Habeas Rule 4.

It is further ordered that any procedural defenses raised by respondents in this case will be raised together in a single consolidated motion to dismiss. In other words, the Court does not wish to address any procedural defenses raised herein either in *seriatum* fashion in multiple successive motions to dismiss or embedded in the answer.

1 Procedural defenses omitted from such motion to dismiss will be subject to potential
2 waiver. Respondents will not file a response in this case that consolidates their
3 procedural defenses, if any, with their response on the merits, except pursuant to 28
4 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If respondents
5 do seek dismissal of unexhausted claims under § 2254(b)(2): (a) they will do so within the
6 single motion to dismiss not in the answer; and (b) they will specifically direct their
7 argument to the standard for dismissal under § 2254(b)(2) set forth in *Cassett v. Stewart*,
8 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no procedural defenses, including
9 exhaustion, will be included with the merits in an answer. All procedural defenses,
10 including exhaustion, instead must be raised by motion to dismiss.

11 It further is ordered that, in any answer filed on the merits, respondents will
12 specifically cite to and address the applicable state court written decision and record
13 materials, if any, regarding each claim within the response as to that claim.

14 It further is ordered that respondents will file a set of exhibits relevant to the
15 response filed to the petition, in chronological order and indexed as discussed, *infra*.

16 It further is ordered that all exhibits filed herein will be filed with a separate index
17 of exhibits identifying the exhibits by number. The CM/ECF attachments that are filed
18 further will be identified by the number or numbers of the exhibits in the attachment. The
19 purpose of this provision is so that the Court and any reviewing court thereafter will be
20 able to quickly determine from the face of the electronic docket sheet which numbered
21 exhibits are filed in which attachments.

22 It further is ordered that counsel additionally will send a hard copy of all exhibits
23 filed to, for this case, the Reno Clerk's Office.

24 It further is ordered that petitioner will have thirty (30) days from service of the
25 answer, motion to dismiss, or other response to dispatch a reply or response to the Clerk
26 of Court for filing.

27 It further is ordered that all requests for relief must be presented by a motion
28 satisfying the requirements of Rule 7(b) of the Federal Rules of Civil Procedure. The

1 Court and the Clerk do not respond to letters and do not take action based upon letters,
2 other than a request for a status check on a matter submitted for more than ninety days.
3 Further, neither the Court nor the Clerk can provide legal advice or instruction.

4 The Clerk further will send petitioner a copy of his petition and amended petition
5 (ECF Nos. 7, 8) along with an updated copy of the docket sheet.

6 DATED THIS 21st day of June 2018.

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MIRANDA M. DU
10 UNITED STATES DISTRICT JUDGE
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